

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Dan Ashworth, # 200507720,

Plaintiff,

v.

**Sheriff David Crenshaw, Anderson County
Sheriff's Dept., Warrants Division; Joey Preston;
N. B. Brad McCure; Magistrate Michael Smith,**

Defendants.

C/A No. 4:06-1245 CMC-TER

OPINION AND ORDER

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, the Complaint filed by Plaintiff, who is proceeding *pro se*, was referred to United States Magistrate Judge Thomas E. Rogers, III, who issued a Report and Recommendation on June 12, 2006.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Based on his review of the record, the Magistrate Judge has recommended that the Complaint be dismissed without prejudice and without issuance or service of process because Plaintiff has failed to state a claim upon which relief could be granted. The Magistrate Judge advised Plaintiff of the procedures and

requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. No objections have been filed the time for doing so has expired.

After reviewing the Complaint and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that this action is **DISMISSED** *without prejudice and without issuance or service of process.*

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
July 18, 2006

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